

1 Richard A. Roth * *Pro Hac Vice*
2 Email: Richard@rrothlaw.com
3 Brian S. Levenson * *Pro Hac Vice*
4 Email: Brian@rrothlaw.com
5 THE ROTH LAW FIRM, PLLC
6 295 Madison Avenue, 22nd Floor
7 New York, NY 10017
8 Phone: 212-784-6699

9 Allen Hyman (California State Bar No. 73371)
10 LAW OFFICES OF ALLEN HYMAN
11 10737 Riverside Drive
12 North Hollywood, CA 91602
13 Phone: (818) 763-6289
14 Fax: (818) 763-4676
15 E-mail: lawoffah@aol.com

16 *Attorneys for Plaintiff*

17 **UNITED STATES DISTRICT COURT**
18 **CENTRAL DISTRICT OF CALIFORNIA**

19 FIONA HARVEY,
20 Plaintiff,
21 v.

22 NETFLIX, INC. and NETFLIX
23 WORLDWIDE ENTERTAINMENT,
24 LLC,
25 Defendants.

Case No. 2:24-cv-04744-RGK-AJR

**DECLARATION OF BRIAN
LEVENSON IN OPPOSITION TO
DEFENDANTS' SPECIAL MOTION TO
STRIKE**

Date: September 16, 2024

Time: 9:00 a.m.

Place: Courtroom 850

Judge: The Hon. R. Gary Klausner

1 I, BRIAN S. LEVENSON, hereby declare and state as follows:

2 1. I am a partner at The Roth Law Firm, PLLC as counsel for Plaintiff
3 Fiona Harvey in this matter. I am over 18 years old and I submit this Declaration
4 based upon my personal knowledge. If called as a witness, could and would testify
5 to the matters set forth below.

6 2. This Declaration is submitted in Opposition to Defendants Netflix
7 Inc.'s, and Netflix Worldwide Entertainment LLC's Special Motion to Strike.

8 3. Annexed as Exhibit 1 is a true and correct copy of the transcript of the
9 May 8, 2024 hearing (the "Hearing") of the Culture, Media and Sport Committee
10 (the "Committee") in the House of Commons, available on UK Parliament's
11 website at (transcript available at

12 [https://committees.parliament.uk/committee/378/digital-culture-media-and-sport-](https://committees.parliament.uk/committee/378/digital-culture-media-and-sport-committee/publications/oral-evidence/)
13 [committee/publications/oral-evidence/](https://committees.parliament.uk/committee/378/digital-culture-media-and-sport-committee/publications/oral-evidence/)) (last visited August 6, 2024). The Hearing

14 can be viewed on UK Parliament's website at t

15 [https://parliamentlive.tv/Event/Index/6fba870f-84fa-4bc5-a25c-](https://parliamentlive.tv/Event/Index/6fba870f-84fa-4bc5-a25c-7373979e4cca#player-tabs)
16 [7373979e4cca#player-tabs](https://parliamentlive.tv/Event/Index/6fba870f-84fa-4bc5-a25c-7373979e4cca#player-tabs)) (last visited August 6, 2024)

17 4. Annexed as Exhibit 2 is a true and correct copy of the promotional
18 material for *Baby Reindeer* on Netflix's website,

19 <https://www.netflix.com/tudum/articles/baby-reindeer-cast-release-date-plot>.

20 Exhibit 2 is incorporated into the Complaint. Complt., ¶ 73.

21 5. Annexed as Exhibit 3 is a true and correct copy of a letter dated May
22 23, 2024 from Netflix to the Committee clarifying its statement at the Hearing that
23 "the person on whom the show is based" was the subject of a court order and not a
24 criminal conviction. Exhibit 3 is available at UK Parliament's website at"

25 <https://api.parliament.uk/committees/publications/45022> (last visited August 6,
26 2024).

6. Annexed as Exhibit 4 is a true and correct copy of a UK Parliament webpage explaining the process of becoming a Member of Parliament available at <https://www.parliament.uk/about/mps-and-lords/members/electing-mps/> (last visited August 6, 2024).

7. Annexed as Exhibit 5 is a true and correct copy of an article *Will the Baby Reindeer Scandal Kill 'True Story' TV*, published by the Sunday Times on June 16, 2024 available at <https://www.thetimes.com/uk/arts/article/will-the-baby-reindeer-scandal-kill-true-story-tv-9v26txpgm> (last visited August 9, 2024).

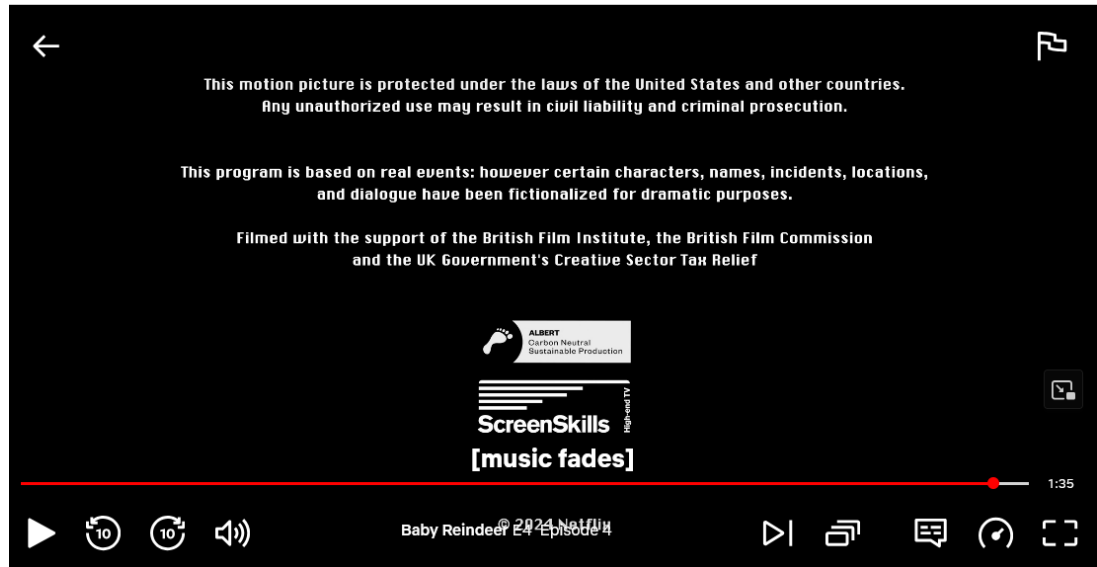
8. Annexed as Exhibit 6 are screenshot excerpts from the ebook of the play, *Baby Reindeer*, written by Richard Gadd, that I purchased through Richard Gadd's website <https://www.richardgadd.com/>.

9. Annexed as Exhibit 7 is a screenshot of a video that Netflix posted to its social media accounts on Twitter and Facebook proclaiming, "Martha's emails from *Baby Reindeer*. Everyone of them is real." Netflix's post received 460,000 views on Twitter, 2.9 million plays on Facebook, available at <https://www.facebook.com/netflixus/videos/marthas-emails-from-baby-reindeer-every-one-of-them-real/1071706193898341/> (last accessed August 6, 2024) and <https://x.com/netflix/status/1779162630520729877?lang=en> (last accessed August 6, 2024).

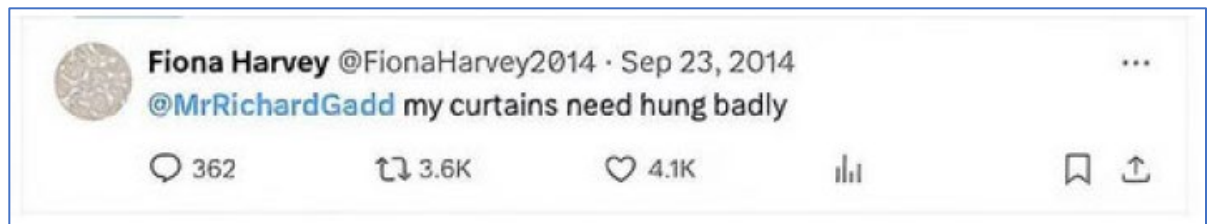
10. When *Baby Reindeer* is viewed on the Netflix platform (not the thumb drive Netflix provided to the Court) the next episode of *Baby Reindeer* begins before the credits complete such that no disclaimer is seen by the viewer. At the end of any episode the viewer is presented with this choice at the end of the episode:



1 If “Watch Credits” is not selected, then the disclaimer is never seen. For example,
2 when I clicked “Watch Credits” option in Episode 4, a disclaimer at -1:35 (about
3 the middle of three minutes of credits) appeared sandwiched between a warning
4 about copyright infringement and a credit for the British Film Commission and the
5 UK Government’s Creative Sector Tax Relief and a logo for Screen Skills as
6 follows:



11. Annexed as Exhibit 8 is a true and correct copy of a publicly available
and searchable tweet from FionaHarvey2014 to MrRichardGadd dated September
23, 2014 that states: “@MrRichardGadd my curtains need hung badly” available at
<https://x.com/FionaHarvey2014/status/514416588645494785?lang=en> (last visited
August 25, 2024). Exhibit 8 is incorporated into the Complaint. Complt., ¶ 35.



12. Annexed as Exhibit 9 is a true and correct copy of relevant excerpts from Netflix's 2024 10-K filed with the Securities and Exchange Commission at <https://www.sec.gov/ix?doc=/Archives/edgar/data/1065280/000106528024000030/nflx-20231231.htm> (last visited August 21, 2024). Exhibit 9 is incorporated into the Complaint. Compl't., ¶¶ 5-6, 11, 50.

13. Laura Wray's interview on Piers Morgan Uncensored is available on Piers Morgan Uncensored's YouTube Channel at: <https://www.youtube.com/watch?v=6U1bb4F9CSs&t=2010s> (last accessed August 26, 2024).

14. Annexed as Exhibit 10 is a true and correct copy of the LinkedIn Profile of Lisa Taback available at <https://www.linkedin.com/in/lisa-taback-4b4a687/> (last visited August 13, 2024).

15. Annexed as Exhibit 11 is a true and correct copy of the Board of Directors page from The Gotham Film & Media Institute's website available at <https://thegotham.org/about/board-of-directors/#null> (last visited August 13, 2024).

16. Annexed as Exhibit 12 is a true and correct copy of the Partnership page from The Gotham Film & Media Institute's website available at <https://thegotham.org/about/partnership/> (last visited August 13, 2024).

17. Annexed as Exhibit 13 is a true and correct copy of the webpage <https://deadline.com/2023/03/netflix-paris-theater-venice-film-festival-gotham-institute-program-screenings-1235313417/> (last visited August 13, 2024) for an article about the Venice Film Festival sponsored by Netflix and The Gotham Film & Media Institute.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Executed this 26th day of August, 2024 at New York, New York.

By: /s/ Brian Levenson
Brian Levenson